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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
10/788,459	03/01/2004	Mark Myrowich	E0510.0001/P001	7384
24998 7590 04/26/2007 DICKSTEIN SHAPIRO LLP 1825 EYE STREET NW Washington, DC 20006-5403			EXAMINER GHALI, ISIS A D	
			ART UNIT	PAPER NUMBER
			1615	
SHORTENED STATUTORY PERIOD OF RESPONSE		MAIL DATE	DELIVERY MODE	
3 MONTHS		04/26/2007	PAPER	

Please find below and/or attached an Office communication concerning this application or proceeding.

If NO period for reply is specified above, the maximum statutory period will apply and will expire 6 MONTHS from the mailing date of this communication.

Office Action Summary	Application No. 10/788,459	Applicant(s) MYROWICH, MARK	
	Examiner Isis A. Ghali	Art Unit 1615	

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) OR THIRTY (30) DAYS, WHICHEVER IS LONGER, FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

- 1) ☐ Responsive to communication(s) filed on ____.
- 2a) ☐ This action is **FINAL**. 2b) ☒ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

- 4) ☒ Claim(s) 1 and 2 is/are pending in the application.
- 4a) Of the above claim(s) ____ is/are withdrawn from consideration.
- 5) ☐ Claim(s) ____ is/are allowed.
- 6) ☒ Claim(s) 1 and 2 is/are rejected.
- 7) ☐ Claim(s) ____ is/are objected to.
- 8) ☐ Claim(s) ____ are subject to restriction and/or election requirement.

Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☐ The drawing(s) filed on ____ is/are: a) ☐ accepted or b) ☐ objected to by the Examiner.
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

Priority under 35 U.S.C. § 119

- 12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All b) ☐ Some * c) ☐ None of:
1. ☐ Certified copies of the priority documents have been received.
 2. ☐ Certified copies of the priority documents have been received in Application No. ____.
 3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).
- * See the attached detailed Office action for a list of the certified copies not received.

Attachment(s)

- | | |
|--|---|
| 1) <input checked="" type="checkbox"/> Notice of References Cited (PTO-892) | 4) <input type="checkbox"/> Interview Summary (PTO-413)
Paper No(s)/Mail Date. ____. |
| 2) <input type="checkbox"/> Notice of Draftsperson's Patent Drawing Review (PTO-948) | 5) <input type="checkbox"/> Notice of Informal Patent Application |
| 3) <input checked="" type="checkbox"/> Information Disclosure Statement(s) (PTO/SB/08)
Paper No(s)/Mail Date <u>7/19/2004</u> . | 6) <input type="checkbox"/> Other: ____. |

DETAILED ACTION

The receipt is acknowledged of applicant's IDS filed 07/19/2004.

Claims 1 and 2 are pending and included in the prosecution.

Claim Rejections - 35 USC § 103

1. The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

2. Claims 1 and 2 are rejected under 35 U.S.C. 103(a) as being unpatentable over the combination of any of US 4,201,663 ('663) or the article by Hudson et al., each combined with US 2002/0192031 ('031).

US '663 teaches a method and apparatus for treating waste water, containing large quantities of organic material, by means of an aerobic bacteriological process which comprises a blanket of inexpensive biodegradable material which provides the functions of heat insulation, odor absorption/adsorption and mechanical support for attached aerobic microorganisms which act to decompose odorous gases (abstract). The blanket floats atop the upper surface of liquid contained within a lagoon and

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comprises straw (col.3, lines 8-13). The blanket acts as an insulator to contain the heat originally present in the waste water as it is discharged into the lagoon as well as the heat produced by the normal anaerobic bacteria action and tends to absorb or adsorb gases given off by bacteriological anaerobic process and provides large surface area upon which aerobic bacteria and microorganisms can grow. These aerobic microorganisms present in the blanket have the capability of decomposing the odorous gases generated in the anaerobic lagoon and thereby greatly reducing or eliminating the noxious odors normally given off by the anaerobic lagoon (col.3, lines 14-25). The blanket is supported by perforated floatation layer (col.2, lines 47-58; col.3, lines 37-38; col.4, lines 36-42).

Hudson et al. teach application of permeable straw to effluent pond surfaces as a continuous cover reduces odor emission, and suggested providing cover support material that appears to extend the cover life expectancy (see the provided abstract).

Therefore, the art recognized straw layer covering animal waste lagoon and also recognized providing support for such a cover.

However, US '663 and Hudson do not explicitly teach support layer is degradable, and degradable protective layer, and that the layers are attached to each other.

US '031 teaches a multilayered cover for an organic waste lagoon made of polypropylene fibers, that is used by applicants (abstract; paragraph 0004). The cover suppresses the release of malodorous gases because it is porous and it restricts the release of gas to a volume regulated by this porosity and an anaerobic zone on the

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underside of the cover provides a substrate to which anaerobic bacteria attach and break down malodorous gases passing through the cover to the atmosphere (paragraph 0028). The cover can remain in place year around once in position (paragraph 0030), which implies its change after a year. FIGS. 6 through 8 of the reference show multilayered cover that are porous, which read on both protective and support layers that are semipermeable and in the form of net (paragraph 0033). The layers are connected (paragraph 0035). The reference teaches that the ultraviolet light degradation is a major limitation on the useful life the cover constructed of a geotextile fabric that described by the reference (paragraph 0031).

Therefore it would have been obvious to one having ordinary skill in the art at the time of the invention provide a cover for animal waste lagoon comprises layer of straw as disclosed by any of US '663 or Hudson, and further provide a porous multilayered support of polypropylene fibers to the straw layer as disclosed by US '031, motivated by the teaching of US '031 such a porous multilayered support suppresses the release of malodorous gases and provides a substrate to which anaerobic bacteria attach and break down malodorous gases passing through the cover to the atmosphere, with reasonable expectation of having lagoon blanket comprises straw layer, and multiple porous support layers of polypropylene that is capable to successfully suppress the release of malodorous gases through the cover to the atmosphere.

The cover layers made of polypropylene disclosed by US '031 are expected to be biodegradable since they are made from the same materials and since materials and their properties are inseparable.

Additionally, one having ordinary skill in the art would have provided multilayered lagoon cover comprises two porous support layers as disclosed by US '031, and further add a straw layer or replace the one of the layers with a straw layer as disclosed by any of US '663 or Hudson et al., motivated by the teaching of US '663 that straw blanket is inexpensive and biodegradable and provides the functions of heat insulation, odor absorption/adsorption and mechanical support for attached aerobic microorganisms which act to decompose odorous gases, or motivated by the teaching of Hudson et al. that a continuous cover of permeable straw to effluent pond surfaces reduces odor emission, with reasonable expectation of having multilayered cover for animal waste lagoon comprising straw layer and porous multilayered support that successfully reduces the odor emission.

3. Any inquiry concerning this communication or earlier communications from the examiner should be directed to Isis A. Ghali whose telephone number is (571) 272-0595. The examiner can normally be reached on Monday-Thursday, 7:00 to 5:30.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Michael Woodward can be reached on (571) 272-8373. The fax phone number for the organization where this application or proceeding is assigned is 571-273-8300.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR.

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Status information for unpublished applications is available through Private PAIR only.

For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should

you have questions on access to the Private PAIR system, contact the Electronic

Business Center (EBC) at 866-217-9197 (toll-free). If you would like assistance from a

USPTO Customer Service Representative or access to the automated information

system, call 800-786-9199 (IN USA OR CANADA) or 571-272-1000.

Isis A Ghali
Primary Examiner
Art Unit 1615

Isis Ghali

ISIS GHALI
PRIMARY EXAMINER